

General Information Letter: Definition of “bingo equipment” under current law.

January 7, 2008

Dear:

This is in response to your letter dated August 25, 2007, in which you request information regarding the Illinois Bingo License and Tax Act (“the Act”; 230 ILCS 25/1 et seq.). The nature of your request and the information you have provided require that we respond with a General Information Letter (GIL). A GIL is designed to provide general information, is not a statement of Department policy and is not binding on the Department, See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department’s website at www.revenue.state.il.us.

In your letter you have stated the following:

Recently the Illinois Legislature passed HB3649 regarding various matters related to Bingo, Pull Tabs, and raffles in Illinois. As part of the new act, the definition of Bingo changed as follows in Section 1.1 of “230 ILCS 25/1.1 new”:

“Bingo” means a game in which each player has a card or board for which a consideration has been paid, containing 5 horizontal rows of spaces, with each row except the central one containing 5 figures. The central row has 4 figures with the word “free” marked in the center space.

My question is the following: If the current Bingo card is renamed a “raffle” card by removing any reference to Bingo on it, and if this card is defaced by punching out the center space in the central row currently marked “free,” can this defaced card be used to run a separate “raffle” game properly licensed by the local municipality in which our charitable group is located?

Our organization is interested in operating our Bingo game strictly in accordance with the new statute. We would thus appreciate your prompt response to our request for an interpretation in this matter.

RULING

Public Act 95-228 amended the Bingo License and Tax Act (the Act) by changing Sections 1, 2, 3, 4, 5 and 5.1 of the Act, and by adding new Sections 1.1, 1.2, 1.3, 1.4, 1.5, and 5.2. New Section 1.1 adds the following definition:

“Bingo” means a game in which each player has a card or board for which a consideration has been paid, containing 5 horizontal rows of spaces, with each row except the central one containing 5 figures. The central row has 4 figures with the word “free” marked in the center space. “Bingo” includes games that otherwise qualify under this paragraph, except for the use of cards where the figures are not preprinted but are filled in by the players. A player wins a game of bingo by completing a preannounced combination of spaces or, in the absence of a preannouncement of a combination of spaces, any combination of 5 spaces in a row, vertically, horizontally, or diagonally.

New Section 1.3(6) states:

A license authorizes the licensee to conduct the game commonly known as bingo, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random.

The language in new Section 1.3(6) also appeared in Section 1 of the Act prior to its amendment. Public Act 95-228 thus added a definition of bingo, but did not change the language that now appears in Section 1.3(6). Also, Public Act 95-228 did not amend Article 28 of the Illinois Criminal Code related to gambling (720 ILCS 5/28-1 et seq.). Section 1(a) of Article 28 of the Illinois Criminal Code defines the offense of gambling, while Section 1(b) enumerates various exceptions. Among the enumerated exceptions is licensed bingo. Section 1(b)(5) states that criminal gambling does not include “the game commonly known as ‘bingo,’ when conducted in accordance with the Bingo License and Tax Act.” 720 ILCS 5/28-1(b)(5).

The ordinary and popularly understood meaning of “bingo” is “a game resembling lotto or keno, the card used being a grid on which 5 numbers that are covered in a row in any direction constitute a win, the center square being counted as an already drawn number.” (Webster’s Third New International Dictionary, Unabridged, 2002) The commonly understood meaning of bingo is substantially the same as the definition Public Act 95-228 added to new Section 1.1.

Accordingly, Public Act 95-228 did not substantively change the meaning of the term “bingo,” but merely clarifies what games are considered to be bingo subject to the Act. Both before and after Public Act 95-228, where consideration is paid in order to play the game commonly known as bingo, a license must be obtained from the Department and the provisions of the Act must be followed. The fact that cards bear the name “raffle,” or that the center space does not contain the specific word “free,” will not prevent a game that is otherwise bingo from being subject to the Act.

Public Act 95-228 also added to Section 1.1 the definition of bingo equipment:

“Bingo equipment” means any equipment or machinery designed or used for the play of bingo.
“Bingo equipment” does not include electronic equipment.

Finally, Public Act 95-228 added Section 1.3(10) to the Act, which states:

Bingo equipment shall not be used for any purpose other than for the play of bingo.

It cannot be determined from the information you have provided whether or not the card, altered as described in your letter, constitutes “bingo equipment” under the Act. Whether any particular item of equipment is “designed or used for the play of bingo” is a factual question that may require, among other things, examination of the particular item at issue.

As stated above, this is a GIL. A GIL does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items one through eight of 86 Ill. Adm. Code 1200.110(b). If you have additional questions regarding this GIL, you may contact me at (217) 782-7055.

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Sincerely,

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Staff Attorney (Income Tax)